



## **Calculating the Deadline for Filing a Trial Certificate in a Civil or Family Law Case**

### **I. The Rules**

The *Supreme Court Civil Rules* and the *Supreme Court Family Rules* set out that trial certificates must be filed at least 14 days before the scheduled trial date. The Rules also set out the consequences for failing to do so.

**Rule 12-4 of the *Supreme Court Civil Rules* states:**

- (1) **Each party of record must file a trial certificate in Form 42 in the registry where the action was started.**
- (2) A trial certificate must be filed **at least 14 days before but not more than 28 days before the scheduled trial date.**
- (3) A trial certificate must contain the following:
  - (a) a statement that the party filing the trial certificate will be ready to proceed on the scheduled trial date;
  - (b) a statement certifying that the party filing the trial certificate has completed all examinations for discovery that the party intends to conduct;
  - (c) the party's current estimate of the length of the trial;
  - (d) a statement that a trial management conference has been conducted in the action or was not required.
- (4) Promptly after filing a trial certificate, the filing party must serve a copy of the filed trial certificate on all parties of record.
- (5) Unless the court otherwise orders, **if no party of record files a trial certificate, the trial must be removed from the trial list.**
- (6) A party who fails to file a trial certificate under subrule (1) is not, without leave of the court, entitled to make further applications.

**Rule 14-5 of the *Supreme Court Family Rules* states:**

- (1) **Each party must file a trial certificate in Form F46 in the registry where the action was commenced.**
- (2) A trial certificate must be filed **at least 14 days before but not more than 28 days before the scheduled trial date.**
- (3) A trial certificate must contain the following:
  - (a) a statement that the party filing the trial certificate will be ready to proceed on the scheduled trial date;
  - (b) a statement certifying that the party filing the trial certificate has completed all examinations for discovery that the party intends to conduct;
  - (c) the party's current estimate of the length of the trial;
  - (d) a statement that a trial management conference has been conducted or was not required in the family law case.
- (4) Promptly after filing a trial certificate, the filing party must serve a copy of the filed trial certificate on all parties.
- (5) Unless the court otherwise orders, **if no party files a trial certificate, the trial must be removed from the trial list.**
- (6) A party who fails to file a trial certificate under subrule (1) is not, without leave of the court, entitled to make further applications.

**II. The Interpretation Act**

To calculate the deadline for filing a trial certificate in a specific civil or family law case, look at the *Interpretation Act*, R.S.B.C. 1996, c. 238, sections 25, 25.2 and 29. These sections contain instructions for how to count days when a rule or statute requires that something be done “at least” a certain number of days before a “reference day” (i.e., a specific day such as a scheduled trial date), and what to do if that day falls on a holiday or a day when an office is closed.

**Sub-section 25(1) of the *Interpretation Act* states:**

- (1) In sections 25.2 to 25.4, “**reference day**” means any of the following by reference to which the beginning or end of a period of time must be determined:
  - (a) a specific or implied day;
  - (b) a day on which a specified or implied event or act occurs;
  - (c) a day on which a different period begins or ends.

**Sub-section 25(3) of the *Interpretation Act* states:**

- (3) A period for doing an act that is determined under section 25.2, 25.3 or 25.4 to begin or end on a holiday begins or ends, as the case may be,
  - (a) if the reference day is before the period, on the next day that is not a holiday, and
  - (b) if the reference day is after the period, on the previous day that is not a holiday.**

**Sub-sections 25.2(1), (2) and (3) of the *Interpretation Act* state:**

- (1) In this section, “**week**” means a period of 7 consecutive days.
- (2) Subject to subsection (3), the beginning or end of a period of one day or consecutive days or of one week or consecutive weeks, expressed in relation to a reference day, is to be determined as follows:
  - (a) if the reference day is before the period, by counting forward from and including the day after the reference day;
  - (b) **if the reference day is after the period, by counting backward from and including the day before the reference day.**
- (3) If a period described in subsection (2) is expressed as “clear” days or weeks or “**at least**” or “not less than” a number of days or weeks,
  - (a) the beginning or end of the period, as determined under subsection (2) (a), is one day later, and
  - (b) **the beginning or end of the period, as determined under subsection (2) (b), is one day earlier.**

“Holiday” includes Sunday. See section 29 of the *Interpretation Act* for a list of holidays.

## **II. The Calculation**

To calculate when a trial certificate must be filed, a party must:

- **Step 1:** Count back **14 days** starting the day before the scheduled trial date (*Interpretation Act*: s. 25.2(2)(b)); and
- **Step 2:** Count back **one additional day** (*Interpretation Act*, s. 25.2(3)(b)).

When counting back, if the 14<sup>th</sup> day falls on a Saturday, Sunday or other day that the court registry is closed, a party must file a trial certificate on or before the previous business day that allows for a 14-day period, not counting the date of filing or the scheduled trial date. **See next page for examples.**

**Please note:** If the Trial Certificate has not been filed by the deadline established by the *Supreme Court Civil Rules* or *Supreme Court Family Rules*, the matter will be struck from the trial list. Supreme Court Scheduling managers have no authority to extend the time of filing or to restore a matter to the trial list.

**Example A: A family trial is scheduled for Tuesday, November 28, 2023:**

- The last day the parties can file a trial certificate is Friday, November 10, 2023 (SCFR 14-5(2))

**Example B – A civil trial is scheduled for Monday, December 4, 2023:**

- The last day the parties can file a trial certificate is Friday, November 17, 2023 (SCCR 12-4 (2))

**Example C – A family trial is scheduled for Monday, December 11, 2023:**

- The last day the parties can file a trial certificate is Friday, November 24, 2023 (SCFR 14-5(2))

---

## November 2023

---

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
		1	2	3	4	5
6	7	8	9	10 Trial A: Deadline to file trial certificate	11	12
13 Court Closed (in recognition of Remembrance Day)	14	15	16	17 Trial B: Deadline to file trial certificate	18	19
20	21	22	23	24 Trial C: Deadline to file trial certificate	25	26
27	28 Trial A: Trial Date	29	30			

---

# December 2023

---

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
				1	2	3
4 Trial B: Trial Date	5	6	7	8	9	10
11 Trial C: Trial Date	12	13	14	15	16	17